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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION
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11 SAMUEL PIERCE,) No. CV 11-06412-DSF (VBK)
12 Plaintiff,) ORDER TO SHOW CAUSE
13 v.)
14 RONA WOLDENBERG, M.D.,)
15 Defendant.)
16)
17 _____)

18 Samuel Pierce (hereinafter referred to as "Plaintiff") filed a
19 "Complaint for Permanent Injunction" in the United States District
20 Court for the Central District of California on August 4, 2011.
21 Plaintiff has brought his Complaint pursuant to 42 U.S.C. § 1983 and
22 42 U.S.C. § 2000(d), prohibiting discrimination based on race, color,
23 or national origin in federally assisted programs. Plaintiff
24 presently resides in Los Angeles, California. (Complaint at 1.)
25 Defendant Rona Woldenberg, M.D. resides in Hempstead, New York and is
26 employed as Assistant Dean of Admissions at Hofstra University. (Id.
27 at 1-2.)

28 Plaintiff alleges that he interviewed on January 3, 2011 at

1 Hofstra University for the federally assisted program for which
2 Defendant Dr. Woldenberg is charged with the management of admissions.
3 Plaintiff alleges he was interviewed by Dr. Mark Mittler, a
4 neurosurgeon with Long Island Neurosurgical Associates, P.C.
5 Plaintiff alleges on April 5, 2011, he received an e-mail stating "You
6 present strong credentials on your application, and although we cannot
7 afford you a position in the class at this time, we have placed your
8 completed application on our alternate list. This will allow the
9 continued consideration of your application for a future acceptance.
10 Our list will remain active through our first day of class, August 1,
11 2011." (Complaint at 2.)

12 Subsequent to receiving the e-mail, Plaintiff spoke with Dr. Mark
13 Mittler by phone on two occasions, first on April 5, 2011 and again on
14 June 17, 2011. Plaintiff was told by Dr. Mark Mittler that Dr.
15 Mittler believed Plaintiff's application should be accepted and there
16 was good chance Plaintiff's application would be accepted. Dr.
17 Mittler advised Plaintiff to contact Defendant regarding Plaintiff's
18 interest in the federally assisted program for which Defendant is
19 charged with the responsibility of admissions and regarding
20 Plaintiff's clinical and research accomplishments at Cedars Sinai
21 Medical Center. (Complaint at 3.)

22 On August 1, 2011, Plaintiff received an e-mail from Defendant
23 stating, "We regret to inform you that we are unable to offer you a
24 seat in our inaugural class." (Complaint at 3.)

25 Plaintiff alleges a violation of his civil rights pursuant to 42
26 U.S.C. § 2000(d) and 42 U.S.C. § 1983. Plaintiff alleges there is "no
27 non-discriminatory basis for Defendant's selection of other applicants
28 to the federally assisted program for which Defendant is charged with

1 managing admissions over Plaintiff given Plaintiff's far superior
2 objective qualifications." (Complaint at 3.) Plaintiff alleges that
3 his application was denied by Defendant because of Plaintiff's
4 national origin. Plaintiff alleges that Defendant has violated his
5 rights under the Fourteenth Amendment and Title VI of the Civil Rights
6 Act of 1964 relating to the freedom from discrimination in the
7 administration of federally supported programs on the basis of
8 national origin. (Complaint at 3.)

9 Plaintiff seeks permanent injunctive relief requiring Defendant
10 to admit Plaintiff to the federally supported program for which
11 Defendant is charged with managing admissions. (Complaint at 4.)
12

13 DISCUSSION

14 Pursuant to 28 U.S.C. § 1391(b), proper venue over a civil rights
15 action such as this properly lies only in (1) a judicial district
16 where any defendant resides, if all defendants reside in the same
17 state; (2) a judicial district in which a substantial part of the
18 events or omissions giving rise to the claim occurs, or a substantial
19 part of the property that is the subject of the action is situated;
20 or (3) a judicial district in which any defendant may be found if
21 there is no district in which the action may otherwise be brought.

22 Here, Plaintiff alleges Defendant Dr. Rona Woldenberg resides in
23 Hempstead, New York. Thus, this action properly could have been
24 brought in the United States District Court for the Eastern District
25 of New York. (See 28 U.S.C. § 112(c).)

26 The Eastern District of New York is a more proper venue for the
27 parties and witnesses in this action because, among other reasons, it
28 is at Hofstra University, which is within that District where all of

1 the allegations against Defendant occurred. Moreover, the relevant
2 records will likely come from this institution. In addition,
3 Defendant is living or working in the Eastern District of New York,
4 their witnesses likely work at Hofstra University or live or work
5 elsewhere in the Eastern District of New York. Also, Plaintiff seeks
6 injunctive relief. Thus, to the extent injunctive relief may be
7 warranted, it is important to consider that the Eastern District of
8 New York will be "closer to the action" and better able to monitor
9 compliance with any injunction that may be granted.

10 Accordingly, Plaintiff is ordered to show cause within 30 days of
11 the date of this Order in writing, why this action should not be
12 dismissed. The Court will deem the failure to file any response to
13 this Order to Show Cause within the time allotted as consent to
14 dismissal.

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16 DATED: August 19, 2011

_____/s/
VICTOR B. KENTON
UNITED STATES MAGISTRATE JUDGE